

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF MAY 21, 2003**

REGULAR MEETING

9:00 A.M.

MAY 21, 2003

PRESENT:

COMMISSIONERS:	Gerald W. Smith, Chairman	Neal Hertzmann, Alternate
	Jim Bagley, Vice Chairman	Richard P. Pearson
	Paul Biane	Bill Postmus
	Bob Colven	A. R. "Tony" Sedano, Alternate
	James V. Curatalo, Alternate	Diane Williams

STAFF: **Kathleen Rollings-McDonald, Acting Executive Officer**
 Clark H. Alsop, Legal Counsel
 Debby Chamberlin, Clerk to the Commission

ABSENT:

COMMISSIONERS: **Dennis Hansberger, Alternate**

REGULAR SESSION - CALL TO ORDER - 9:13 A.M.

Chairman Smith calls the regular session of the Local Agency Formation Commission to order.
Commissioner Biane leads the flag salute.

Chairman Smith requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved.
There are none.

SWEARING IN OF REGULAR BOARD OF SUPERVISORS MEMBER OF THE COMMISSION

Clerk to the Commission Debby Chamberlin administers the Oath of Allegiance to Regular Board of Supervisors Member Bill Postmus, whose term of office expires May, 2007.

**ELECTION OF CHAIRMAN AND VICE CHAIRMAN - GERALD W. SMITH REELECTED CHAIRMAN;
JIM BAGLEY REELECTED VICE CHAIRMAN**

Acting Executive Officer Kathleen Rollings-McDonald presents the staff report related to the election of the Chairman and Vice Chairman, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the Commission selects its Chairman and Vice Chairman annually at the May hearing and she says the rules indicate that no member can serve more than two consecutive terms. She notes that Chairman Smith and Vice Chairman Bagley are ending their first full terms and both are eligible for reappointment.

Ms. McDonald opens the nominations for Chairman. Commissioner Biane nominates Commissioner Smith for Chairman and Commissioner Bagley for Vice Chairman, seconded by Commissioner Postmus. Ms. McDonald calls for further nominations. There being none, Commissioners Smith and Bagley are unanimously reelected as Chairman and Vice Chairman.

APPROVAL OF MINUTES FOR REGULAR MEETING OF APRIL 16, 2003

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Chairman Smith calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Colven moves approval of the minutes as presented, seconded by Commissioner Biane. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Postmus, Smith, Williams. Noes: None. Abstain: None. Absent: None.

CONSENT ITEMS

LAFCO considers the item listed under its consent calendar, which Chairman Smith states is approval of the Acting Executive Officer's Expense Report. Ms. McDonald announces that she has not prepared an expense report as she has no reportable expenses to submit at this time.

CONTINUED ITEMS

CONSIDERATION OF LAFCO 2911 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE REVIEW (REDUCTION) PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR WEST SAN BERNARDINO COUNTY WATER DISTRICT (COYOTE CANYON SPECIFIC PLAN AREA) AND CONSIDERATION OF LAFCO 2912 - WEST SAN BERNARDINO COUNTY WATER DISTRICT DETACHMENT (COYOTE CANYON SPECIFIC PLAN AREA) - APPROVE STAFF RECOMMENDATION

LAFCO conducts a continued public hearing to consider a service review and proposed sphere of influence reduction for, and detachment from, the West San Bernardino County Water District (hereinafter referred to as "the District"). This hearing is continued from April 16, 2003. Individual notice of this hearing was provided to affected and interested agencies, County departments, and those individuals requesting mailed notice.

Acting Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald reports that the proponent for the sphere reduction and detachment has requested withdrawal of the two proposals. She says the staff recommendation is that the Commission accept the withdrawal request. She says the District indicates it will accept withdrawal of the applications and will be able to provide water to the area in the near term. She notes that the Commission has been presented this morning with a letter from Gerald Eagans of Redwine and Sherrill, attorneys for the District, and a letter from Frank Schuma, Community Development Director for the City of Fontana, which indicates that the City rescinded its support for the two applications. Ms. McDonald says staff will process the requested refund of deposits, once all outstanding charges have been cleared.

Chairman Smith opens the public hearing and asks if there is anyone wishing to speak on these items. There is no one and he closes the hearing. Commissioner Sedano compliments the parties for getting together and negotiating the right decision.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Williams. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Postmus, Smith, Williams. Noes: None. Abstain: None. Absent: None.

CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY CITY OF CHINO FOR GENERAL PLAN AMENDMENT NO. 2000-02, PREZONE NO. PZ 2003-01, AND THE PRESERVE SPECIFIC PLAN (THE PRESERVE-CHINO SPHERE OF INFLUENCE-SUBAREA 2) (STATE CLEARINGHOUSE NO. 2000121036) AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2908; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 2908 - CITY OF CHINO ANNEXATION NO. 2001-01 (SUBAREA 2-AGRICULTURAL PRESERVE) - APPROVE STAFF RECOMMENDATION

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Commissioners Biane and Postmus announce that they will abstain from voting on this item as they have conflicts. They leave the hearing at 9:20 a.m.

LAFCO conducts a continued public hearing to consider a proposal submitted by the City of Chino (hereinafter referred to as "the City") to annex approximately 5,200 acres generally located southerly of Merrill Avenue (City of Ontario boundary), westerly of the Riverside County line (Hellman Avenue), northerly of the Riverside County line (within the El Prado Basin) and easterly of Euclid Avenue (existing City of Chino boundary). This hearing is continued from March 19, 2003, at which time a status report on the proposal was provided. Notice of this hearing was advertised as required by law through publication in The Sun, the Inland Valley Daily Bulletin, the Riverside Press Enterprise, and the Chino Champion, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

Acting Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that this annexation will take in the balance of the City's southeastern sphere of influence and she says the background information in staff report provides an outline of the magnitude of the decision the Commission is making today. She notes that at the April hearing the Commission was presented with the environmental review documents related to the anticipated land use changes. She summarizes some specific issues outlined in the staff report, the first of which are boundary issues. She discusses a fourteen-acre, totally surrounded island area located in the northwestern City sphere, south of Walnut Avenue near the 60 Freeway, between Pipeline and Ramona Avenues. She says staff reviewed the question of the annexation of this island with City staff who indicated that it is part of their ongoing work plan, but they are not prepared to address that issue at this time. She says that neither the City nor the primary developer of The Preserve, Lewis Operating Corporation, want to see this annexation delayed because of this island. She reports that when the Cities of Rialto and Barstow had major annexations, the Commission agreed to adopt a finding requiring the Cities to commit to initiate annexation of their island areas within one year. She says, however, that with the City of Ontario's Dairy Preserve annexation, the Commission conditioned the approval on the initiation of a small island area because there were no future annexations contemplated for Ontario. She reports that the City has provided a letter committing to initiate the island annexation within one year and she says staff recommends that there be a finding in the resolution regarding the City's commitment. Ms. McDonald says the other boundary issue is the magnitude of the 8.5 square mile annexation area, which represents a 50% land area increase. She says the City has indicated in the Plan for Service and other documents that it is prepared to address services issues in a limited way now and will plan to build the necessary infrastructure in the future.

Ms. McDonald says the staff report outlines the various land use issues and she says the City will provide a presentation on the Specific Plan and development of the area. She discusses the issue of the conversion of prime agricultural land, stating that the Commission is directed to guide development away from prime agricultural lands when feasible and protect open space and agricultural uses, which it has done for 35 years. She says the staff report outlines the issue of the loss of agricultural land addressed in the City's Environmental Impact Report (EIR), Partially Recirculated EIR, and Mitigation Monitoring Plan and she notes that the City will participate in the Williamson Act Easement Exchange Program and plans that may be developed pursuant to the provisions of SB 831. Regarding the Agricultural Preserve and the Williamson Act Contract lands, Ms. McDonald reports that a list of the contracts to be transferred and administered by the City is attached to the staff report. She says the City will take action to disestablish the Preserve upon annexation, which will set in motion the nonrenewal process for the balance of the contracts. She notes that the California Department of Conservation has been contacted throughout this process and has indicated it has no further comments with the concurrence that the City will succeed to the existing contracts.

Ms. McDonald says the existing service levels are minimal due to the agricultural nature of the area, with the Chino Valley Fire Protection District (hereinafter referred to as "the Fire District") and the West Valley

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Mosquito and Vector Control District being the only organized service providers. She says this area anticipates the need for the full range and level of municipal services and that the City has outlined its provision of service in the Specific Plan and the Plan for Service. She says LAFCO Environmental Consultant Tom Dodson will discuss the environmental review process.

Ms. McDonald says the findings required by State law and Commission policy are outlined in the staff report and are made a part of the record by their reference herein and that staff feels this application complies with the policies and directives of the Commission. She says the City has indicated that urban-level development is anticipated and she says Commission policy indicates that urban-level development should be included within a municipal service provider. She says the staff recommendation is listed on pages one and two of the staff report and includes that the Commission: (1) take the various actions listed with respect to the environmental review for LAFCO 2908; (2) approve LAFCO 2908, subject to the listed conditions; and (3) adopt LAFCO Resolution No. 2770 setting forth the Commission's terms, conditions, findings and determinations.

Commissioner Pearson asks for clarification regarding fire service for this area in relationship to the Chino Airport. Ms. McDonald responds that fire protection will remain unchanged through the Fire District. She says Station 63 currently located at the Airport was to be moved based on the City of Ontario annexation (LAFCO 2842) and that land has been purchased upon which to relocate that station. She says development of this project requires that a fire station be located in this area in order to maintain the levels of response. She refers to a letter from Chief Paul Benson of the Fire District which indicates that reference in the City's Plan for Service to "relocate Fire Station 63 for the Subarea 2 development" would be better stated as "provide a fire station for the Subarea 2 development".

Tom Dodson discusses the environmental review process, stating that the EIR was recirculated to address specific issues raised during the public comment period. He explains that the Commission will be indicating that the Final EIR is adequate for its use as a CEQA Responsible Agency for its determinations related to this proposal and will adopt the Candidate Findings of Fact and Statement of Overriding Considerations. He says that document: (1) lays out what the project encompasses for the Specific Plan area; (2) indicates what impacts were determined to be nonsignificant and identifies the related mitigation measures; (3) identifies the significant impacts and their related mitigation measures and indicates that if the Commission approves this annexation it is finding that the benefits of the project will outweigh the negative impacts that will be created by the project; (4) evaluates alternatives and makes the determination that there are no additional alternatives that need to be considered and that all mitigation measures will be implemented by the City or other entities as the Specific Plan is implemented over the years; and (5) provides a balancing test and provides the reasons that the Commission found it appropriate to find that the identified benefits of the project override the five identified significant adverse impacts.

Commissioner Colven asks what the 4,400 plus acre feet per year of recycled water, referenced on page 275 of the Final EIR, will be used for. Mr. Dodson discusses that it will be used: (1) to offset direct consumptive uses, such as industrial uses for cooling; (2) for direct irrigation on golf courses, park and recreation areas, and Caltrans facilities; and (3) for direct recharge into the recharge basins within the Chino Basin, probably in another ten years. He says the net effect will be to retain water within the Chino Basin, resulting in the ability to meet the demand for the ultimate population projections within the Basin.

Chairman Smith opens the public hearing and calls on those wishing to speak.

Eunice Ulloa, Mayor of the City of Chino, says she has mixed emotions today because the dairy and agricultural industry have been a major part of the economic base of the Inland Empire and represented a historic image for the City. Mayor Ulloa says, however, that they are excited that with this annexation the City will be working with the Southern California Agricultural Land Foundation to preserve some of that heritage. She says they have been working closely with the County and LAFCO on this annexation since 1994 to determine the best land uses for this area and says they have prepared a comprehensive Plan for Service so that the City is not taking on a project that it cannot serve. She says they have met with

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environmentalists, property owners, developers, representatives for the Fire District and school districts, the surrounding cities, and the County of San Bernardino and, to their knowledge, there is no opposition. She reports that the City adopted and certified the EIR for The Preserve on April 1, 2003, and says annexation of the area is the next logical step. She says the City is willing and able to take on this responsibility; that they are very proud of the Plan they have developed; and that this project will be a gem for the Inland Empire.

Chuck Coe, Director of Community Development, highlights some items in the staff report. Mr. Coe says the City has complied with the requirements of LAFCO from 1994 when this area was placed in the City's sphere and he says they amended the General Plan and adopted the Specific Plan that will guide the conversion of the Dairy Preserve to urban uses. He says the City prepared a comprehensive set of environmental analyses; that the project has received an award from the local section of the American Planning Association; and that the extensive public involvement program was probably one of the most unique features of the Plan. He reiterates that the City is committed to initiate the annexation of the small island within the next twelve months. He says that the City has been setting aside funding to provide for services to the area; has prepared a detailed Plan for Service which has been coordinated with other jurisdictions; and has a proposed budget this year for the Agricultural Preserve and resources necessary to begin providing services once annexation is approved. Regarding land use issues, Mr. Coe says the City has fully considered the land uses in surrounding jurisdictions and believes the City's land use plan is compatible with those of the surrounding jurisdictions. He says he believes all parties they have been dealing with are in support of the Plan. He discusses that the City has experience with transitioning agricultural areas to urban areas and says the City has a "Right to Farm" law that will apply to minimize adverse effects between urban and agricultural uses. He discusses that they have worked closely with the Chino Airport people; that the Plan is consistent with the Airport Master Plan adopted in 1991; and that the City has actively participated in the County's Airport Master Plan update process. Regarding service issues, Mr. Coe reports that master plans have been developed for services for each of the major infrastructure areas. He reports that Lewis Operating Corporation is a major landowner in the area and has been a major partner, working with the Fire and School Districts and the Inland Empire Utilities Agency. He says a water supply assessment was done, which incorporates all requirements of new State laws which went into effect during preparation of the EIR and Plan, and he says a minimum twenty-year water supply has been assured for the Plan area. Mr. Coe says the City supports the staff recommendation and acknowledges the outstanding support received from LAFCO staff. He says Mr. Roddy and Ms. McDonald were particularly helpful in dealing with an issue with an Orange County Water District that owned property in the area and had concerns about how the project might impact the District's property. Mr. Coe says City Manager Glen Rojas, Public Works Director Patrick Glover and other staff are available to answer questions.

Commissioner Pearson asks who in the City performs the responsibilities of the Airport Land Use Commission (ALUC). Mr. Coe responds that the Planning Commission performs that function. He adds that an airport zone was created to accommodate uses on the Airport as well as uses the County foresaw as desirable. Commissioner Pearson inquires about the planned location for the fire station and whether there will be fire service capability at the Airport. Mr. Coe responds there will be that capability at the Airport and he asks Chief Benson to speak regarding that issue.

Chief Benson says there is some confusion because on page 17 of the Plan for Service prepared by Stanley R. Hoffman Associates reference is made to the relocation of Station 63 on the Airport to accommodate this annexation and development anticipated to take place. He explains that one of the conditions in the 1999 Ontario annexation was that \$300,000 be provided for the relocation of Station 63 on the Airport due to the loss of service area that the station had under the jurisdiction of the Fire District. He reports that last year the City of Ontario worked with the Fire District and that the District purchased another site for Station 63, which is approximately three miles northwest of the existing location, and will complete and staff that station when funding is available. He says that prior to the issuance of the 1,350th building permit in the Specific Plan area, a fire station will have to be built and ready to be occupied by the Fire District. He says the District is looking at and working with County Airports on an agreement for one acre of land on Kimball Avenue at approximately the extension of Campus Avenue, about one-half mile east of Euclid Avenue.

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(It is noted that Commissioner Williams leaves the hearing at approximately 10:00 a.m.)

Chief Benson discusses the challenges of serving the proposed development since it is at the edge of the Fire District's service area. He says that it was determined that to adequately serve the annexation area, a station should be placed back up closer to the Airport. He says the fire station that will be built to serve this community initially will be staffed with one engine and crew but will be able to handle additional engine companies and staff as development down there grows. He says the Fire District will continue to provide structural fire protection and first-in crash rescue response that it currently does on the Airport.

Chairman Smith asks whether there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Bagley moves approval of staff recommendation, seconded by Commissioner Colven. Commissioner Bagley says this is an example of how a major annexation project should be done; that it was put together professionally and appropriately; and that it was a pleasure to have this proposal come before the Commission in this manner. Chairman Smith comments that he agrees. Commissioner Curatalo concurs, stating that he has great faith in the City and all the Districts involved. He says it was a well thought-out Plan and that this is a great moment in the history of the City of Chino.

Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Hertzmann, Pearson, Smith. Noes: None. Abstain: Biane and Postmus. Absent: Williams (Hertzmann voting in her stead).

DISCUSSION ITEMS

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR FEE SCHEDULE REVISIONS; AND
(2) REVIEW AND ADOPTION OF FILING FEE SCHEDULE FOR FISCAL YEAR 2003-04 AND
REVIEW AND ADOPTION OF FINAL BUDGET FOR FISCAL YEAR 2003-04 - APPROVE STAFF
RECOMMENDATIONS**

LAFCO conducts a public hearing to review the proposed Schedule of Fees and Charges and Final Budget for Fiscal Year (FY) 2003-04. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, County departments, all cities and independent special districts, the County, and those individuals requesting mailed notice.

Acting Executive Officer Kathleen Rollings-McDonald presents the staff report on the Fee Schedule, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the proposed Fee Schedule adopted last month was forwarded to all cities, independent special districts and the County for review and comment. She says that in the interim between hearings, staff noted that a deposit for the preparation of a "Comprehensive Fiscal Analysis" for incorporation efforts had not been included. She says staff proposes the inclusion of that deposit, with actual costs to be borne by the applicant. Ms. McDonald says the staff recommendation is that the Commission: (1) certify that the proposed revisions to the schedule of Fees and Charges are statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) and instruct the Clerk to file a Notice of Exemption within five working days; (2) adopt the Schedule of Fees and Charges, as modified, effective June 1, 2003; and (3) adopt LAFCO Resolution No. 2772 reflecting the Commission's determinations.

Chairman Smith opens the public hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Hertzmann. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Hertzmann,

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Pearson, Smith. Noes: None. Abstain: None. Absent: Biane, Postmus, Williams (Hertzmann voting in her stead).

Ms. McDonald presents the staff report on the adoption of the final budget, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. She says the proposed budget that was approved in April was circulated to the cities, independent special districts and the County for comment. She states that during this comment period, the Commission's Executive Officer James Roddy resigned his position, so the budget has been modified to adjust the current year projections for salary and benefit expenses. She discusses the proposed changes to the budget documents for the current and upcoming fiscal years, as outlined on pages two and three of the staff report, which include: (1) leaving the Deputy Executive Officer position vacant for the first quarter of the new FY; (2) providing a 7½% "Special Assignment Compensation" for a six-month period for the LAFCO Clerk and Secretary; (3) transferring \$10,672 from the Contingency account to Termination Payments account to accommodate the increased payments for the current FY; and (4) modifying the estimated expenditures for LAFCO Legal Counsel and Computer System Development. Ms. McDonald reports that no comments or expressions of concern, support or neutrality have been received from any of the cities, districts or the County. She says the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) adopt the FY 2003-04 final budget, as modified; (2) find that pursuant to Government Code Section 56381, the programs and purposes of the Cortese-Knox-Hertzberg Government Reorganization Act of 2000 and the Commission can be met within the reduced budget proposed; and (3) direct the Acting Executive Officer to submit to the County Auditor the adopted final budget and request the apportionment of the Commission's net costs to the County, cities and independent special districts pursuant to the provisions of Government Section 56381.

In response to inquiry of Commissioner Pearson, Ms. McDonald indicates that for the balance of the current FY, the Commission will pay no charge for the part-time Planner from the Land Use Services Department who will assist in maintaining the Commission's workload by working on CEQA review and compiling information for the municipal service reviews. She notes that the Commission will pay a percentage for this position for the upcoming FY. Commissioner Pearson discusses his concern about having a person from the County perform that work because he says a certain amount of the analyses may or may not be "friendly" to the County. He says they must assure that the analyses are open and even-handed. Ms. McDonald responds that the Planner will work at her direction and says she does not foresee any problems since he will only be gathering information and she will prepare the staff reports. She says Orange County LAFCO used this type of arrangement and never had any problems. Commissioner Pearson says the key is that the Commission be aware that this arrangement is going on.

Commissioner Sedano comments that he thinks the Special Assignment Compensation should be retroactive to March 1 when the increased workload started, rather than April 16. Ms. McDonald responds that April 16 was chosen as the start date for the special compensation because that is the date the announcement was made regarding the position changes in the LAFCO staff.

Commissioner Colven asks whether the apportionment of the Commission's net costs mentioned in staff recommendation No. 3 relates to the apportionment each special district will be required to pay. Ms. McDonald responds that the districts will be apportioned their share of \$163,000 according to the formula adopted by the districts last year. Commissioner Colven asks whether there is an appeal process if a district feels there is a disparity in the amount it must pay. Ms. McDonald says a district could ask the Auditor to review its apportionment, but says she does not believe there is an appeal process. Legal Counsel Clark Alsop says there is no appeal related to the one-third share the districts must pay, but he says the districts can, and have, come up with a formula different from that in the statute. Ms. McDonald notes that the formula adopted by the districts last year will continue until it is changed at the request of a majority of the districts. Commissioner Colven thanks Ms. McDonald and says the Commission appreciates all the work she does on the budget.

(It is noted that Commissioner Biane returns to the hearing at approximately 10:20 a.m.)

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Commissioner Hertzmann comments that the interest income has gone up from last year and is an apportionment from the County. He asks what it is based on. Ms. McDonald responds that it is based on the net proceeds the County receives for interest earned and that payments are received quarterly and are based on the balance in the County Treasury at the time. Commissioner Biane comments that Dick Larsen, Treasurer-Tax Collector, is very proud of the investment portfolio he manages. He says this County out-performs every other County in the State, is ranked as one of the safest, and will see returns higher than normally expected on interest earnings. Commissioner Hertzmann comments that the Refunds from Prior Year revenue show as a negative. Ms. McDonald explains that the payment of various deposits for the processing of an application, which can take four to six months, is required up front. She says when the books are closed, if fee revenue was received in the prior year, it is noted that the refund is made from prior year proceeds rather than current fees. Commissioner Hertzmann asks whether any of the monies identified as carryover from the prior year or the total identified carryover are committed. Ms. McDonald says the last page of the narrative identifies where those revenues come from, explaining that the reserve amount shows every year as a part of the carryover and that the total identified carryover can be used to offset costs for next year. Mr. Hertzmann notes that the Contingency account has not been used for three years. Ms. McDonald says staff is proposing that it be used this year and transferred to the Salary and Benefits account to accommodate the unforeseen occurrence related to the resignation of Mr. Roddy.

Chairman Smith opens the public hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Bagley. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Hertzmann, Pearson, Smith. Noes: None. Abstain: None. Absent: Postmus, Williams (Hertzmann voting in her stead).

CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION PREPARED BY CITY OF UPLAND FOR PZC-02-01 AND EAR-1399 AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2936: AND (2) LAFCO 2936 - CITY OF UPLAND ANNEXATION NO. 57 - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a proposal initiated by property owner petition to annex approximately 13.34 acres to the City of Upland (hereinafter referred to as "the City"). The study area is located along the north side of Arrow Route, east and west of Central Avenue, and is part of the island area known as "College Heights". Notice of this hearing has been advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

Acting Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald discusses the existing land uses in the area. She says that early in discussions, staff worked with the City and the applicant so that the boundaries were drawn to include the territory between the proposed development and existing City boundaries to address a concern about the creation of a corridor of unincorporated territory. She says the boundaries of the proposed annexation extend northward into the unincorporated territory along Arrow Route, bordered on two sides by the existing City limits, and represent the possibility of a "sawtooth-type" annexation. She reports, however, that the City last week submitted an application for the annexation of the larger island area. She explains that the property owner requested that his area be processed on its own because he wishes to proceed with his development project and does not want to be a part of the consideration for annexation of the larger island, which may take some time to resolve. She says the City is processing a development application for the applicant's proposed 156 unit apartment complex for the property east of Central Avenue. She reports that the City Council's review of the project was

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controversial and that at its meeting of February 10, 2003, the City Council revised the project and reduced the number of apartments approved from 168 to 156, increased the parking, and included 64 special conditions. She summarizes the Plan for Service, pointing out that many of the existing commercial uses in the area are currently connected to the City's water and sewer system and pay a premium rate for services. She says fire protection and emergency medical services are currently provided by County Service Area (CSA) 38 and will be replaced by the City's services. She discusses that the County Fire Department has expressed concern regarding the impacts on CSA 38 and CSA 70 with the transfer of responsibility and revenues to cities as a result of annexations, noting that the loss in this case will be a little over \$4,000 and is not considered to be a major shift. However, she says it is a major issue for the larger island and she points out that the transfer of fire responsibility may prove to be a critical point for the delivery of service by CSA 38 in the West Valley. She says law enforcement will shift from the County Sheriff and that the County Library provides services in the City. She says Tom Dodson, LAFCO's Environmental Consultant, has reviewed the environmental documents and indicated that they are adequate for the Commission's use as a responsible agency.

Ms. McDonald states that the findings required by State law and Commission policy are outlined in the staff report and are made a part of the record by their reference herein. She says that although the boundaries are less than ideal, staff supports this annexation. On the overhead display map she shows the parcels which support the annexation and those which oppose the annexation. She notes that a letter of opposition from David Beno is attached to the staff report and says an updated letter from Mr. Beno has been presented to the Commission this morning. She says this area is uninhabited and that consent to the annexation from landowners representing greater than 50% of the land value has been received.

Ms. McDonald says the staff recommendation is that the Commission: (1) certify that it has reviewed and considered the City's environmental assessment, take the actions identified in the staff report, and direct the Clerk to file a Notice of Determination within five working days; (2) approve LAFCO 2936; and (3) adopt LAFCO Resolution No. 2771 setting forth the Commission's findings, determinations and standard conditions of approval.

Chairman Smith opens the hearing and calls on those wishing to speak.

Charles Pifer, who is part of the development team and is representing the landowner and developer, says they have worked on this project for over three and one half years. Mr. Pifer says they went through numerous development proposals for this site to find something that would work for the landowner and the City and he says the approved project for 156 apartment units has an affordable component that will help the City with its requirements for affordable housing. He notes that some residents were opposed to the project but he reports that they were able to resolve some of their concerns and provide some additional help for their impacts. He says the Planning Commission reviewed and approved the rezoning; that the project was reviewed by the Airport Land Use Commission (ALUC); and that the City Council approved the project with some revisions. Mr. Pifer says they feel they are adding a very high end project to a neighborhood that could use the upgrading and he requests the Commission's approval.

Commissioner Pearson states he flew to Cable Airport yesterday and toured the area. He says the location is within the site of Safety Zone Area 2 for the Airport. He discusses his concerns about the difficulty of mitigating the impacts of the noise levels on the apartment building, especially for the residents of the third floor. He says he does not see that the noise levels were measured at the top level. He points out that the larger aircraft will be noisy, particularly on weekends. He also comments that there is an attractive industrial park in this area and says this project looks out of place. Mr. Pifer says the noise issue was addressed at the ALUC hearing and that they are within the decibel noise level allowance for constructing this type of building. He adds that the building has been designed so that the interior noise coming from the outside is within the design standards that are less than the Airport noise requirements.

Commissioner Biane says this area is in the Second District. He comments that there are six and eight story buildings at the Claremont Colleges, less than a half mile from this apartment, and he says he thinks they are more within the flight pattern of Cable Airport. Commissioner Pearson discusses that they actually

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are not, but he says part of the traffic pattern and the entrance to the traffic pattern are directly over this site. He says he agrees Claremont is not far away, and he says it has been indicated as a noise sensitive area, but he says he is not convinced that the noise measurements that were done take into effect the height of the top floor of the apartment building. Commissioner Biane says he does not know whether the concerns being raised by Commissioner Pearson are within the Commission's purview in considering this annexation. Commissioner Pearson comments it is part of the project mitigation. Mr. Pifer says some of those issues were discussed at the ALUC hearing. He says if they design the project to restrict interior noise to the required Title 24 decibel levels, they believe they will prevent any substantial impacts to people living on the third floor. He says they feel the project mitigates those impacts.

Commissioner Bagley says Commissioner Pearson's concern is that developments are approved in the perimeter of an airport and then people complain that the airport is awful. He says it is incumbent on public officials to raise these issues when there is development around an airport. Mr. Pifer says that part of the easement and land use requirements is that potential residents must be notified that there is an airport and the impacts from it.

Jeff Bloom, Community Development Director for the City, says the City supports the project and that he is available to answer any questions. He says the City has often had to deal with the conflicts of development and Cable Airport. He points out that in the 18 years he has been with the City, he is not aware of any complaints about overflying aircraft from the residents of a nearby apartment complex, just a few hundred feet away down the street on Arrow Highway. He says mitigation is required as part of the project approval that will require Mr. Pifer to make people aware that there will be aircraft flying over the apartment. He discusses that the City has filed an application for the annexation of the larger College Heights island, stating they have been having ongoing discussions with the City's fire staff and the County Fire Department over response times and first-in responders. He says the County is worried about the eventual loss of revenue which could affect their servicing San Antonio Heights, an unincorporated area in the City's northern sphere of influence. Mr. Bloom says the City sees no difficulties with providing fire services to this new area and says the City has a station across from the Airport that can be on scene faster than CSA 38's response time. He says this is the 90th year of the Upland Library and clarifies that the Library is not a branch of the County Library system. He points out that there is already apartment development from Benson Avenue, almost to this site on the south side of Arrow Highway, and a single-family neighborhood immediately to the south. He says the City felt that if there was going to be viable commercial development along Central Avenue and south of Foothill Boulevard, there would need to be a larger population base to serve that. He says Mr. Pifer can best be accommodated by the annexation of his smaller area, and he says that the City will continue working with LAFCO staff, who he says has been very helpful in keeping the City's projects moving, while working under difficult circumstances. In answer to inquiry of Chairman Smith, Mr. Bloom explains that CSA 38 dispatches from the San Antonio Heights area to serve the island area; he says he is not sure what their response time is but thinks it must be about seven or eight minutes. He reports that the City's Station 2, which is a fully-staffed station with paramedics on each unit, is right at the corner of the larger island and will have a response time to this annexation area of no more than a couple of minutes.

Rosalie Staudenmayer, Senior Planner for the City, says she has been working with the applicant for about four years on his project. She thanks Ms. McDonald for walking the City through this annexation process.

Bill Blanchard, Planning Director for the Cable Airport, states that he is in favor of this annexation as a resident and as the Airport Planning Director. Mr. Blanchard says the Airport has no problem with this annexation, but does have a problem with the zoning and the apartment project. He shows pictures of the Airport and the location of the project within the Airport's sphere, and discusses the Airport traffic patterns. He says the project is right at the intersection of traffic coming in from the south and traffic taking off and either departing or staying in the pattern, and he says those planes are under full power and cause the noise discussed by Commissioner Pearson. He says the Airport Land Use Planning Handbook, which addresses the noise issue, says that at small airports like Cable Airport, the single-event noise is the problem. Mr. Blanchard points out that those single events will occur on Saturdays and Sundays, every fifteen minutes, and he says they are very concerned about those impacts.

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Chairman Smith asks whether there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Biane says he is confused as to why LAFCO is in a position to take into account the Airport's sphere of influence. He says they are talking about noise level mitigation, which he says is processed through the City of Upland. Ms. McDonald explains that the Commission is reviewing approvals the City has granted for the project that will take effect upon annexation. She says the Commission cannot regulate or condition its approval on land use but must address the anticipated land use. She says the City has approved this project and what is being discussed is whether or not there are any concerns related to the City's approval. Legal Counsel Clark Alsop says that the Commission can consider the anticipated land use and can deny the annexation if it thinks the land use is inappropriate; but he says the Commission cannot ask that the land use be changed in order for the annexation to be approved.

Commissioner Bagley says this hearing is the appropriate forum for he and Commissioner Pearson to express their concern, even though it cannot be part of the decision. Commissioner Pearson says if this was a matter of annexing vacant land, he would be okay with that. However, he discusses that when the Commission knows how the property will be used, he cannot help but be concerned and wonder whether approval of this annexation could be setting up those people who will be residents of the apartment for big trouble. He says the Commission must consider these types of things, even though it cannot hinge approval or denial of a proposal on them.

Commissioner Bagley moves approval of staff recommendation, seconded by Commissioner Biane. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Hertzmann, Smith. Noes: Pearson. Abstain: None. Absent: Postmus, Williams (Hertzmann voting in her stead).

Commissioner Bagley comments that discussions about the concerns related to the Airport will be better addressed in the planning processes of the City and he says this annexation will allow that.

(It is noted that Commissioner Biane leaves the hearing at approximately 11:00 a.m.)

**AMENDMENT OF POLICIES FOR MUNICIPAL SERVICE REVIEWS - APPROVE STAFF
RECOMMENDATION**

LAFCO conducts a public hearing to consider an amendment of the Commission's policies for municipal service reviews. Notice of this hearing was advertised as required by law through publication in The Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, County departments, and those individuals requesting mailed notice.

Acting Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the question of what the Commission defined as a "minor sphere amendment" and its relationship to the statutory requirements for service reviews was raised during the processing of the sphere of influence amendment for the West San Bernardino County Water District. She says staff has looked into this question and reviewed the minutes from the hearings on the adoption of the policies and does not believe the Commission intended to require a service review for every sphere of influence amendment, as defined in Government Code Section 56428. She explains that staff's concern is that two proposals are anticipated to be filed shortly, one for the Baldy Mesa Water District and one for the City of Redlands in the Donut Hole, and says direction is needed as to how the Commission intended this policy to be addressed.

Ms. McDonald says staff recommendation is that the Commission take one of the following actions: (1) provide direction to staff to return at a later hearing with additional information addressing this policy; (2) clarify that it is its intent to require a service review for all sphere of influence amendments and affirm the existing policy language; or (3) adopt the proposed amendments, or a modified amendment.

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Legal Counsel Clark Alsop states this will clarify some of the sections discussed some time ago about the Office of Planning and Research Guidelines, which he notes still have not been finalized.

Chairman Smith opens the public hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Colven moves to adopt the amendments as proposed, seconded by Commissioner Pearson. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Hertzmann, Pearson, Smith. Noes: None. Abstain: None. Absent: Biane, Postmus, Williams (Hertzmann voting in her stead).

PENDING LEGISLATION

Ms. McDonald states she does not have an oral report to present this month.

ACTING EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald states that the Commission has been presented this morning with a newsletter from the California State Water Resources Institute. She reports that the next meeting will be June 18, 2003, and she says there will be no proposals ready for review on that agenda. She says the Commission will consider waivers of the requirement for individual landowner and registered voter notification for two proposals, a sphere of influence expansion and annexation for Baldy Mesa Water District and a sphere of influence expansion for the West Valley Mosquito and Vector Control District, as well as a waiver of filing fees for the dissolution of County Service Area 77. She says that a workshop on service reviews for the East Valley agencies will also be on that agenda because staff wants to receive some direction from the Commission before getting "wholeheartedly" into the reviews.

Commissioner Pearson asks about the status of the West Valley Mosquito and Vector Control District issue. Ms. McDonald reports that she is working on gathering information on the County Vector Control Program. She notes that the District is the only one existing that performs that service and says the balance of the County is covered by the County's program and it contracts with various cities. She says she met with the District and County staffs and requested information so that an outline of that service provision can be presented, hopefully in July, and the Commission can look at the issue of what the District proposes to do.

Ms. McDonald reminds the Commission that the CALAFCO Conference is September 24-26 and she asks those who have not talked to the Clerk about attending the Conference do so after the meeting.

COMMENTS FROM THE PUBLIC

Chairman Smith calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 11:10 A.M.**

ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

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GERALD W. SMITH, Chairman